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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,317

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Brian Smith

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EXAMINER

KATCHEVES, BASIL S

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

02/25/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/565,317	Applicant(s) SMITH, BRIAN	
	Examiner BASIL KATCHEVES	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-38 is/are rejected.
- 7) ☒ Claim(s) 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/26/10</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The applicant has cancelled claims 1-31 in the paper filed 12/16/09 and added new claims 32-38. Pending claims 32-38 are examined below.

Claim Objections

Claim 37 is objected for improper dependency. Claim 37 depends from canceled claim 1. Claim 37 will be examined as if depending from claim 32. Correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,649,682 to Barrett, Jr. in view of U.S. Patent No. 6,708,459 to Bodnar.

Regarding claims 32, 34 and 38, Barrett discloses a composite panel (fig. 1) having a frame which includes C shaped members (fig. 8: 38) which has a web (fig. 8:

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where 108 points) two transverse flanges (see both flanges 38), wherein a first flange (lower flange) is completely embedded in a concrete (column 3, lines 36-39) slab with the web extending outward from the rear of the slab. However, Barrett does not disclose the flange as having a reinforcing layer fastened to it. Bodnar discloses a panel with C beams, concrete and a mesh reinforcement (72) attached to a C beam via a tab and tab opening (80). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Barrett by adding the mesh and tab connection, as disclosed by Bodnar, in order to better reinforce the concrete. Also, the use of mesh in concrete is standard practice and is a well known means of strengthening concrete panels. Also, Barrett discloses the basic claim structure of the instant application but does not disclose specific density dimensions as claimed by the applicant. Applicant fails to show criticality for specifically claimed range, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims. Also, Barrett does not particularly disclose the use of aerated concrete. However, Barrett discloses the use of cementitious mixtures or more broadly, a hardenable material (column 3, line 37). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an aerated concrete, since this is a standard concrete used in panels and Barrett teaches a hardenable material such as a cement mixture. The use of aerated concrete would have been an obvious design choice. Barrett also discloses the C beams as having first and second flanges and a web in between, the second flange extends from the web at an opposite end than that of the first flange.

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Regarding claim 33, the limitation of a foaming concrete is met by the rejection of claim 32 of the obviousness of using aerated concrete, since the applicant's specification points to a foaming agent as common with aerated concretes.

Regarding claim 35, Barrett in view of Bodnar discloses a slit and expanded metal (Bodnar 74 & 72).

Regarding claim 36, Barrett discloses opening in the panels surrounded by the frame members (window and door openings, last two lines of abstract and 1: utility box openings).

Regarding claim 37 Barrett discloses an outer member (fig. 8: 106) which is L shaped (center and left side) with two legs wherein one leg is attached to the web (where 106 points) and the other leg (opposite to 110) is attached to the front face of the slab and extends parallel to the first flange. Regarding the limitation of removably and permanently, the applicant should note that any connection is inherently permanent until removed. These connections are inherently capable of being removed and inherently capable of remaining permanent.

Response to Arguments

Applicant's arguments filed 12/16/09 have been fully considered but they are not persuasive. The applicant argues the prior art lacks a metal frame embedded in air entrained concrete, the concrete having particular specifications of density. The applicant should note that the rejection is an obviousness rejection and even still, concrete has an inherent grade of air within. The examiner notes the declaration

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dated 12/16/09. However, the particular density would have been obvious to one in the art depending upon the intended use of the concrete. More or less density would be chosen upon the particular application for which the concrete is to be used. Concrete is well known in the art of construction as is the construction of concrete in that the densities, and materials, may vary depending upon the particular use that it is suited to. The applicants remaining arguments are repeated from the previous action and are also addressed in that action dated 11/2/09.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot, can be reached at (571) 272-6777.

/Basil Katcheves/

Primary Examiner, Art Unit 3635